

REMARKS

Claims 1-16 were examined and reported in the Office Action. Claims 1 and 2 are rejected. Claims 1-16 have been amended. New claims 17-26 have been added. Claims 1-26 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. 35 U.S.C. § 102(b)

It is asserted in the Office Action that claims 1, 2 are rejected under 35 U.S.C. § 102(b), as being anticipated by U. S. Patent No. 3,025,693 issued to Braginetz ("Braginetz"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2131, '[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, *i.e.*, identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Applicant's claim 1 contains the limitations of a lock mechanism including a lock body, a lock beak rotatably mounted within the lock body, a biasing device which bias the lock beak to a first position, a strike having a hook, the hook co-operable with the lock beak when the hook is engaged in the body, and the lock beak is in said first position, operating members within the lock body operable by external actuating means, the operating members being operatively mounted such that they can be independently operated to cause the lock beak to rotatably move against the bias of the biasing device from said first position to a second position to remove the engagement between the hook and lock beak and one said operating member being operable to retain the lock beak in said first position.

Applicant's amended claim 1 asserts that one of the operating members within the lock body (and which is operable by external actuating means) retains the lock beak in the first position. In other words, one of the operating members can be operated to cause the lock beak to move from the first position to the second position but, equally, can be used to retain the lock beak in the first position.

It is asserted in the Office Action that operating member 34 of Braginetz retains the beak in the first (latched) position. Braginetz, however, discloses that reference numeral 34 actually indicates the "key actuator tumbler." Therefore, reference numeral 34 indicates what is an external actuating means rather than an internal operating member. In Braginetz, the operating member 30 is within the lock mechanism and is operable by way of the key actuated tumbler 34. This operating member has a pair of legs 198. When rotated in one direction the leg 100 causes the lock beak to move from the latched position (first position) to an unlatched position (second position). Applicant's amended claim 1 asserts that the lock beak is biased by bias means to a first position. Because of the biasing in the construction disclosed by Braginetz, it is clear that the latch position of Braginetz is the first position.

Depending on the amount of movement of leg 100, the lock beak can be moved further into a retained position (see Figure 6). This retained position is, however, the second (unlatched) position. When the operating member is moved in the opposite direction, leg 98 can contact parts 64 of the lock beak and remove the lock beak from this retained position. When the lock beak is in the first position, however, there is nothing that retains the position other than the spring (biasing means).

Therefore, Braginetz does not teach, disclose or suggest an operating member, which retains the lock beak in the first or biased position, i.e. the latching position. Therefore, Braginetz does not teach, disclose or suggest Applicant's amended claim 1 limitations of "the operating members being operatively mounted such that they can be independently operated to cause the lock beak to rotatably move against the bias of the biasing device from said first position to a second position to remove the engagement between the hook and lock beak and one said operating member being operable to retain the lock beak in said first position."

Further, Applicant respectfully disagrees with the assertion in the Office Action that the lock beak disclosed in Braginetz is rotatably mounted within a lock body. In Braginetz, the lock body (if such exists) is formed by the cup-plate 36 and handle-plate 38 between which the lock components are located. Notably, however, the lock beak projects beyond the "body" formed by the combination of plates 36 and 38. If the stiles 12 form part of the lock "body", even then the lock beak is not rotatably mounted within the lock body, as quite clearly, in the latched (first) position, the lock beak projects beyond the stiles 12. Nevertheless, the stiles 12 form part of the door construction and not a lock body.

Therefore, since Braginetz does not disclose, teach or suggest all of Applicant's amended claim 1 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(b) has not been adequately set forth relative to Braginetz. Thus, Applicant's amended claim 1 is not anticipated by Braginetz. Additionally, the claim that directly depends on claim 1, namely claim 2, is also not anticipated by Braginetz for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejections for claims 1, 2 are respectfully requested.

II. Allowable Subject Matter

Applicants note with appreciation that the Patent Office has objected to claims 3-16 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant has rewritten claims 3 and 4 in independent form, including the base claim.

Applicant respectfully asserts that claims 1-26, as it now stands, are allowable for the reasons given above

CONCLUSION

In view of the foregoing, it is submitted that claims 1-26 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on **March 16, 2005**, Applicant respectfully petitions the Commissioner for a one (1) month extension of time, extending the period for response to **Monday July 18, 2005** (July 16, 2005 being a Saturday). The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$120.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) large entity. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: July 14, 2005

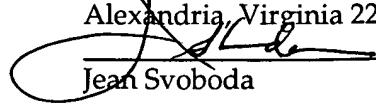
By: 

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450 on July 14, 2005.


Jean Svoboda